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December 18, 2006

**BY HAND DELIVERY**

Lawrence H. Norton, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2006 DEC 18 P 4:08

Re: **MUR 5862**  
**Friends of Joe Lieberman and Lynn Fusco, as treasurer**

Dear Mr. Norton,

On behalf of Friends of Joe Lieberman and Lynn Fusco, as treasurer (the "Committee"), this letter is submitted in response to the complaint filed by Ned Lamont for Senate, as amended on November 2, 2006 (the "Complaint") and subsequently labeled MUR 5837. The Complaint should be dismissed immediately.

These allegations center on the Committee's reporting of its GOTV efforts on behalf of Senator Lieberman prior to the 2006 Connecticut primary. The Committee does not dispute that as part of its GOTV effort, it paid individuals a stipend from petty cash of \$60/day for conducting GOTV, nor does it dispute that it paid field consultants and temp agencies to supply additional workers during this period. The Committee strongly disputes, however, the notion that these payments were somehow "hidden" from the public record and that the Committee failed to meet its reporting obligations.

Section 432(h)(2) of the Federal Election Campaign Act of 1971, as amended (the "Act") and section 102.11 of Commission regulations place specific requirements on any political committee that maintains a petty cash fund.

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A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person per purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements. This written journal shall include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement. In addition, if any disbursement is made for a candidate, the journal shall include the name of that candidate and the office (including State and Congressional district) sought by such candidate.

**2 U S C § 432(h)(2), 11 C F R § 102 11**

As required by section 432(h) of the Act and 11 C F R § 102 11, the Committee maintained a petty cash journal and recorded the name, address, date, amount, and purpose for each purchase or transaction. To the best of the Committee's knowledge, the entries in its petty cash journal are accurate and materially complete. Consistent with the \$100 per transaction limit of section 432(h)(2) and section 102 11, the Committee paid a stipend of no more than \$100 for one day of canvassing work by an individual. The canvassers' roster was fluid, and there was no set minimum or maximum length of service, so unquestionably there were individuals who received a stipend of \$60/day, and worked in excess of four days. The Committee disagrees with Ned Lamont for Senate's contention that these and other disbursements from its petty cash fund, maintained in accordance with section 432(h) and 11 C F R § 102.11, must all be itemized on the Committee's FEC report.

Ned Lamont for Senate claims that because the Committee did not itemize its petty cash fund on its FEC report, it "stands in clear violation of 11 C.F.R. § 102 11." There is nothing in section 102 11, however, that states that the Committee must transfer its petty cash journal onto its FEC report. If the law is to be read to require that all entries in a petty cash journal must be itemized on FEC reports, then that begs the question of why section 432(h) and section 102.11 do not actually say that.

Additionally, Ned Lamont for Senate points to the itemization requirement set forth in 2 U.S.C. § 434(b)(5), and, to support the notion that payments from petty cash are not reported merely as petty cash but are itemized, Ned Lamont for

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**Senate relies on FECFile Frequently Asked Questions about the FECFile software package See letter from Ned Lamont for Senate to the Office of General Counsel, dated November 2, 2006, at 2 The text referred to in the Complaint is not specific to petty cash, but contains general guidance about treating entries as itemized vs unitemized While acknowledging the very helpful role Commission staff play in providing guidance to the regulated community, this particular statement is directed to the subset of the regulated community that uses FECFile It does not rise to the level of a Commission rule or even policy statement on the particular question of whether petty cash journals must be entered into a committee's FEC report, rather than simply treated as "petty cash" with an appropriate purpose description**

**This is not a trivial question for the Commission to address, for it will have a wide-reaching effect on not just the Committee, but also on every committee that currently maintains a petty cash fund in accordance with 2 U S C § 432(h)(2) and 11 C F R § 102.11, but which does not itemize its petty cash on its FEC report when the total amount of petty cash spent at the local pizza place, or office supply store, exceeds \$200 If itemization of petty cash is required on FEC reports, then it stands to reason that it will be required across the board, and not just in situations such as here, where the Committee made a large number of petty cash disbursements for a large number of transactions, in a relatively short time frame The Committee strongly urges the Commission to give the regulated community an opportunity to weigh in before the Commission amends the instructions to its Forms, or amends its Campaign Guide, or adopts a policy statement, or promulgates a rule in this area.**

**In addition to its allegations about payments from the Committee's petty cash fund, the Complaint contains allegations concerning payments made by check to two field consultants, Thomas Reyes and Daryl Brooks As a result of an inadvertent error by the Committee's payroll service, the Committee's payments to each of these consultants appear as duplicate entries on the Committee's FEC report Mr. Reyes is listed as being paid \$8,250 on two dates (August 4 and 15), and Mr. Brooks is listed as being paid \$12,200 on two dates (August 11 and 15) Neither Mr. Reyes nor Mr. Brooks received two payments The Committee agrees to amend its report to correct these inadvertent errors prior to its next filing deadline**

**The Committee disagrees, however, with the Lamont campaign's suggestion that**

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it was required to sub-itemize payments made by these vendors, by temp agencies, or by any other vendor that may subcontract work See Advisory Opinion 1983-25 If the Commission were to adopt Ned Lamont for Senate's position on this issue, it would have widespread ramifications for other committees and other vendors The Committee urges the Commission to proceed with care before adopting a position that would significantly alter the current understanding of the regulated community as to when itemization of payment to vendors is required.

In sum, Ned Lamont for Senate's assertions are without merit, and its insinuation that the Committee made any disbursement for "illicit purposes" is false The Commission should dismiss this Complaint immediately

Very truly yours,



**Brian G Svoboda**

**Enclosure**